

UNPUBLISHED

UNITED STATES COURT OF APPEALS

FOR THE FOURTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff-Appellee.

v.

No. 98-4809

PAUL LEE MOBLEY,

Defendant-Appellant.

Appeal from the United States District Court
for the Eastern District of Virginia, at Norfolk.
Jerome B. Friedman, District Judge.
(CR-98-72)

Submitted: July 20, 1999

Decided: September 13, 1999

Before MURNAGHAN, NIEMEYER, and HAMILTON,
Circuit Judges.

Affirmed by unpublished per curiam opinion.

COUNSEL

Duncan R. St. Clair, III, ST. CLAIR & JOHNSON, Norfolk, Virginia,
for Appellant. Helen F. Fahey, United States Attorney, Laura Pellatiro
Tayman, Assistant United States Attorney, Norfolk, Virginia, for
Appellee.

Unpublished opinions are not binding precedent in this circuit. See Local Rule 36(c).

OPINION

PER CURIAM:

Paul Lee Mobley appeals from a 120-month sentence imposed following his jury conviction for conspiracy to possess with the intent to distribute and to distribute cocaine, 21 U.S.C.A. § 846 (West Supp. 1999). We have reviewed the record and find no reversible error. We therefore affirm Mobley's conviction and sentence.

Mobley first claims that the district court should have granted his motion to suppress. We review the district court's legal conclusions de novo and its factual determinations for clear error. See United States v. Elie, 111 F.3d 1135, 1140 (4th Cir. 1997); United States v. Lattimore, 87 F.3d 647, 650 (4th Cir. 1996) (en banc). The evidence presented at the suppression hearing demonstrated that Mobley was stopped upon probable cause to believe that he was violating a traffic law of the Commonwealth of Virginia, that he was detained briefly and only long enough to perform a routine check on him and the vehicle, that the additional brief period of time that he was detained was consensual, and that he freely and voluntarily gave the State Trooper his general consent, without limitation and without withdrawing such consent, to search the vehicle for drugs. Under these circumstances, we find that the district court properly denied Mobley's motion to suppress.

We further find, after a thorough review of the record and viewing the evidence in a light most favorable to the Government, that the evidence was sufficient to support his conviction for conspiracy to possess with the intent to distribute and to distribute cocaine, 21 U.S.C.A. § 846. See United States v. Wilson, 135 F.3d 291, 306 (4th Cir.), cert. denied, 118 S. Ct. 1852 (1998). Thus, the district court did not err in denying Mobley's motion for judgment of acquittal. See United States v. Romer, 148 F.3d 359, 364 (4th Cir. 1998), cert. denied, 119 S. Ct. 1032 (1999).

We decline to review Mobley's assertion that trial counsel provided ineffective assistance because the present record does not conclusively demonstrate ineffectiveness. See United States v. Hoyle, 33 F.3d 415, 418 (4th Cir. 1994).

Accordingly, we affirm Mobley's conviction and sentence. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the Court and argument would not aid the decisional process.

AFFIRMED